

Decision \_\_\_\_\_

Application of the City of San Luis Obispo, herein sometimes referred to as "City" for an order authorizing the Construction of the Railroad Safety Trail Overpass Grade Separation Project (MP 247.80) over the Union Pacific Railroad (UP) in the City of San Luis Obispo.

Application 19-01-005

**DECISION GRANTING AUTHORIZATION TO THE CITY OF SAN LUIS  
OBISPO FOR CONSTRUCTION OF THE RAILROAD SAFETY TRAIL  
OVERPASS GRADE SEPARATION PROJECT OVER THE UNION PACIFIC  
RAILROAD IN THE CITY OF SAN LUIS OBISPO**

**Summary**

Pursuant to Public Utilities Code §§ 1201- 1205, we grant the City of San Luis Obispo the authority to construct one grade separated pedestrian-rail crossing over the Union Pacific Railroad track at Phillips Lane, UP Milepost 247.80, in the City of San Luis Obispo, San Luis Obispo County, California. The crossings will be identified as California Public Utilities Commission Crossing Number 001E-247.80-AD, and United States Department of Transportation Number 972462Y. This proceeding is closed.

**1. Procedural Background**

Pursuant to Public Utilities (Pub. Util.) Code §§ 1201-1205 and in accordance with Rule 3.7 of the Commission's Rules of Practice and Procedure (Rule), and General Order (GO) 26-D, on January 9, 2019, the City of San Luis Obispo (City or Applicant) filed Application (A.)19-01-005 (Application) for

authority to construct one grade-separated pedestrian rail crossing (overpass) in the City, over a track at Phillips Lane, between Taft Street and Pepper Street. The City proposes to extend the Railroad Safety Trail (Trail) from Taft Street easterly to Pepper Street, as shown on the location and vicinity maps included in Exhibits B1 and B2 of the Application. The City proposes to construct a new pedestrian overpass structure on the Trail parallel to and over the Union Pacific Railroad (UP) track. This project will extend the Trail towards the Amtrak Station, resulting in a safer crossing of the UP tracks and will bring the City closer to its goal of connecting the California Polytechnic State University San Luis Obispo (Cal Poly) to the Amtrak Station for the safety and convenience of pedestrians and bicyclists.

On February 11, 2019, the California Public Utilities Commission's (Commission) Safety and Enforcement Division, Rail Crossings and Engineering Branch (SED) provided a response to the Application.

A telephonic prehearing conference (PHC) was held on March 7, 2019, where the Applicant, SED, and the Administrative Law Judge (ALJ) discussed the issues presented by the Application, the schedule and other relevant procedural matters.

A Scoping Memo was issued on March 14, 2019. All assigned Commissioner and ALJ rulings are affirmed herein.

The Commission has jurisdiction over this Application pursuant to Public Utilities (Pub. Util.) Code §§ 1201 to 1205.

## **2. Compliance with the California Environmental Quality Act**

The Railroad Safety Trail Overpass Grade Separation Project constitutes a project under the California Environmental Quality Act (CEQA) of 1970 (as amended, Public Resources Code secs. 21000, et seq.). CEQA applies to

discretionary projects to be carried out or approved by public agencies. A basic purpose of CEQA is to inform governmental decision-makers and the public about potential, significant environmental effects of the proposed activities. Under CEQA, the lead agency is either the public agency that carries out the project or the one with the greatest responsibility for supervising or approving the project as a whole. The City of San Luis Obispo is the project proponent. Since this project includes a rail crossing the Commission is also a responsible agency under CEQA.

The City of San Luis Obispo prepared a Mitigated Negative Declaration (MND) dated March 2017. The City of San Luis Obispo approved the project on May 15, 2017. A Notice of Determination was filed with the State Clearinghouse on May 25, 2017. (State Clearinghouse Number: 2017031074.)

As a responsible agency the Commission must consider the environmental effects identified in the relating to the portion of the project that is before the Commission for approval. The Commission has the authority to mitigate or avoid only the direct and indirect environmental effects of those parts of the project which it is called on to carry out or approve. The Commission must adopt any mitigation measures within the Commission's jurisdiction that avoid or mitigate the part of the project the Commission approves, unless the changes or alterations are infeasible for specific economic, legal, social technological or other considerations. The Commission must balance any unavoidable impacts against specific economic, legal, social, technical and other benefits. The Commission must file a Notice of Determination (NOD) with the State

Clearinghouse certifying that the Commission has considered the environmental document.

The environmental document prepared for this Project, and MND, considered numerous categories of possible impacts. These included: aesthetics, agricultural, air quality, biological resources, cultural resources, geology and soil impacts, hazards and hazardous materials, hydrology and water quality, land usage and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, utility and service systems. An extensive set of mitigations and a mitigation monitoring program were developed to lessen these impacts caused by the project with the goal of keeping all impacts below the level of significance. When an impact was found to exceed the accepted level of significance a mitigation measure was designed to eliminate the impact or keep the impact below the level of significance. The MND indicated that all impacts were mitigated below the level of significance.

The Commission reviewed and considered the MND as this document related to the proposed rail overcrossing. The Commission adopts the mitigation measures detailed in the environmental document that apply to the entire project. We find that the MND along with the mitigations and monitoring plan adopted for the project which includes the rail crossing are adequate for our decision- making purposes. The Commission's Energy Division will file a NOD with the CEQA State Clearinghouse stating the Commission considered the environmental documents related to the proposed rail crossing.

### **3. Filing, Safety and Engineering Requirements**

Applications for the construction of this overpass must meet the requirements of Rule 3.7 and GO 26-D.

SED conducted a site visit of the proposed crossing location on March 17, 2016 and found no safety or other issues. SED has also completed the review of A.19-01-005 and concluded that the application complies with all the requirements of the Commission's Rules as well as all applicable requirements of the Commission's GO 26-D.

Therefore, the Commission finds the City's Application provides sufficient documentation to satisfy the Commission requirements listed above, for the proposed overhead grade separated structure, as detailed in Appendix A to this decision.

### **4. Timeline of Authority to Construct**

The City requested a construction period of three years. SED has no objection to the City's request.

The Commission typically authorizes a three-year construction period for projects such as the one requested herein,<sup>1</sup> and Applicant may request a one-year extension of the three-year authorization granted herein, if more time is necessary to construct the overpass.<sup>2</sup>

The Commission therefore finds the City's proposal reasonable and approves the City's proposal to authorize the construction of the overhead structure for three years from the date of this Decision.

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<sup>1</sup> See Decisions (D.) 18-10-041 at 6 and 9, and D.18-10-037 at 7 and 11.

<sup>2</sup> Such request must be submitted to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days before the expiration of that period. A copy of the extension request must also be sent to all interested parties.

**5. Conclusion**

We conclude that the Application conforms to our rules for granting authority to construct the requested overpass. Accordingly, we grant the City the authority to construct one grade-separated pedestrian rail crossing on the Trail parallel to and over the UP track at Phillips Lane, between Taft Street and Pepper Street, in San Louis Obispo, California This authority is subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

**6. Waiver of Comment Period**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Pub. Util. Code and Rule 14.6(b), the otherwise applicable 30-day period for public review and comment is waived.

**7. Assignment of Proceeding**

Martha Guzman Aceves is the assigned Commissioner and Gerald F. Kelly is the assigned Administrative Law Judge in this proceeding.

**Findings of Fact**

1. The proposed railroad crossing meets the requirements of Rule 3.7.
2. The proposed railroad crossing meets GO 26-D requirements.
3. We find that the MND along with the mitigations and monitoring plan adopted for the project which includes the rail crossing are adequate for our decision- making purposes.
4. The City proposes a three-year authorization to construct the proposed overpass.

**Conclusions of Law**

1. The Commission reviewed and considered the environmental compliance documents submitted by the City.

2. The Commission's Energy Division should file a NOD with the CEQA State Clearinghouse stating the Commission considered the environmental documents related to the proposed rail crossing.

3. The City's proposal for Commission authorization to construct one overpass within three years is reasonable.

4. The application should be granted.

**O R D E R**

**IT IS ORDERED** that:

1. The City of San Luis Obispo is authorized to construct a new overpass grade separated pedestrian-rail crossing over the Union Pacific Railroad track at Phillips Lane in the City of San Luis Obispo, between Taft Street and Pepper Street.

2. The grade-separated pedestrian-rail crossing shall be identified as California Public Utilities Commission Number 001E-247.80-AD and United States Department of Transportation Number 972462Y.

3. The grade-separated pedestrian-rail crossing shall have the configuration described and specified in the application and its attachments.

4. The City of San Luis Obispo shall comply with all applicable rules, including California Public Utilities Commission General Orders, California Manual on Uniform Traffic Control Devices, and the Americans with Disabilities Act.

5. The City of San Luis Obispo shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days prior to the opening of the crossings. Notification should be made by e-mail to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

6. Union Pacific Railroad shall notify all operating railroads that will traverse the proposed grade-separated pedestrian-rail crossing of the temporary impaired vertical clearance.

7. The City of San Luis Obispo shall notify Union Pacific Railroad and the California Public Utilities Commission's Safety and Enforcement Division – Rail Operations Safety Branch and Rail Crossings and Engineering Branch at least 15 days but not more than 30 days in advance of the date when the City of San Luis Obispo creates the temporary reduced vertical clearance. The City of San Luis Obispo may submit the notification electronically to Rail Operations Safety Branch and Rail Crossings and Engineering Branch at [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

8. Within 30 days after completion of the work authorized by this decision, the City of San Luis Obispo shall notify the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division by submitting a completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossing and Separations), for the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site. The completed report must be submitted via email to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

9. Within 30 days after completion of the work under this order, Union Pacific Railroad shall notify the Federal Railroad Administration of the existence of the public, grade-separated, pedestrian-rail crossing by submitting United States Department of Transportation CROSSING INVENTORY FORMs, form FRA F6180.71 for the crossing. Concurrently Union Pacific Railroad shall provide a copy of the inventory forms to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch. The copies of the form may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).



10. This authorization shall expire if not exercised within three years of the issuance of this decision unless time is extended or if the above conditions are not satisfied. Authorization may be revoked or modified if public convenience, necessity or safety so require.

11. A request for extension of the three-year authorization must be submitted to the California Public Utilities Commission's Rail Crossings and Engineering Branch of the Safety Enforcement Division at least 30 days before the expiration of that period. A copy of the extension request shall be sent to all interested parties.

12. The Commission's Energy Division shall file Notice of Determination with the California Environmental Quality Act State Clearinghouse stating the Commission considered the environmental documents related to the proposed rail crossing.

This order is effective today.

Dated \_\_\_\_\_, 2019, Oxnard, California.

## Appendix A

### SUMMARY OF FILING REQUIREMENTS

#### **Compliance with the Commission's Rules of Practice and Procedure: Rules of Practice and Procedure, Rule 3.7:**

- (a) Milepost and Legal Location: The proposed crossing milepost for the Phillips Lane Pedestrian Overpass is 247.80. The proposed crossing will be located at geographic coordinates with latitude, longitude: 35.287716849116265, -120.65780778233602
- (b) The crossing identification numbers of the nearest existing public crossings are:  
  
To the north: State Route 101 grade-separated underpass crossing, CPUC No. 001E-247.60-B, and DOT No. 745353W.  
  
To the south: Mill Street grade-separated overpass crossing, CPUC No. 001E-247.90-A, and DOT No. 745354D.
- (c) Rule 3.7(c) is not applicable because the proposed crossing will not be an at-grade crossing.
- (d) A map in compliance with Rule 3.7(d) is included as Exhibit B3.
- (e) A map in compliance with Rule 3.7(e) is included as Exhibit B1.
- (f) A profile in compliance with Rule 3.7(f) is included in Exhibits B7, B8, and B9.

#### **Applicable Safety and Regulatory Requirements:**

**General Order 26-D:** The proposed overpass crossing complies with General Order (GO) 26-D, Section 2.1, which states the minimum overhead vertical clearance requirement is 22 feet-6 inches. The City proposes a temporary impaired vertical clearance of 21 feet-6 inches during construction. The final proposed overpass crossing has a minimum overhead vertical clearance requirement of 24 feet-4 inches.

**(END OF APPENDIX A)**